



# County of Los Angeles CHIEF ADMINISTRATIVE OFFICE

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DAVID E. JANSSEN  
Chief Administrative Officer

June 4, 2007

To: Supervisor Zev Yaroslavsky, Chairman  
Supervisor Gloria Molina  
Supervisor Yvonne B. Burke  
Supervisor Don Knabe  
Supervisor Michael D. Antonovich  
*[Signature]*  
From: David E. Janssen  
Chief Administrative Officer

Board of Supervisors  
GLORIA MOLINA  
First District

YVONNE B. BURKE  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

## REPORT ON THE GOVERNOR'S PROPOSED JUVENILE JUSTICE INITIATIVE (RELATES TO ITEM NO. 74, AGENDA OF JUNE 5, 2007)

On May 22, 2007, on a motion by Supervisor Molina, the Board directed the Chief Probation Officer to report back regarding Governor Schwarzenegger's proposed Juvenile Justice Initiative. This item was continued from the meeting of May 29, 2007, at the request of the Chief Administrative Officer in order to provide the Board with additional analysis.

### Administration's Proposal

The Governor's Juvenile Justice Initiative would propose that counties retain non-violent, non-serious juvenile offenders previously transferred to State facilities. In return, the State would reimburse the counties \$94,000 for each youth returned to County custody. The Administration estimated that 1,338 fewer wards would be in State custody by the end of FY 2007-08. Specifically the proposal would: 1) stop the State intake of female youth and move to no longer house female offenders in State Division of Juvenile Justice (DJJ) facilities; 2) stop the State intake of parole violators with an original non-violent committing offense; 3) stop the State intake of non-violent juveniles adjudicated by the court and who are currently committed to DJJ custody until age 21; and 4) return to the counties, non-violent juveniles who are in DJJ facilities.

In the May Revision of the Governor's Budget, an adjustment was made to reflect a reduction of 931 wards in State facilities at the end of FY 2007-08 from the proposed reform.

### **Status of State Level Discussions**

The Chief Probation Officers' Association of California (CPOC) and the California State Association of Counties (CSAC) believe that the level of funding included in the State's proposal would be inadequate to cover the costs for this particular population. CSAC and CPOC are also concerned about the stability of long-term State funding for this population. This office is currently working with other County departments to determine the non-custody costs for retaining the non-707(b) population. According to the law, 707(b) offenders are those persons adjudicated to have violated the law under Section 707(b) and include wards that have reached the age of 16 years or older who have been found to have committed serious offenses such as: murder, arson, robbery, and rape. The non 707(b) population are those persons adjudicated to have violated the law with less serious offenses, excluding those defined for the 707(b) population.

Negotiations on this proposal are currently occurring with the Administration, CPOC and CSAC. Based upon communications from CPOC about the negotiations, we believe that the State is pursuing the voluntary return of existing DJJ wards and would continue to allow violent female wards to be housed at State facilities based upon the determination of the courts. CPOC's information also suggests that the transfer of violent offenders to counties change from a mandatory to voluntary requirement. In addition, only future non-violent offenders would be precluded from State detention and that these changes would be applied on a gender neutral basis. These discussions modify the original Governor's proposal to the following points:

- allow counties to continue to send 707(b) offenders to State facilities as directed by the courts regardless of gender and retain existing female offenders in State facilities;
- stop the State intake of parole violators with an original non-violent committing offense;
- stop the State intake of non-violent juveniles adjudicated by the court and who are currently committed to DJJ custody until age 21; and
- allow the counties to voluntarily bring back non-707 (b) offenders in State facilities.

Currently, stakeholders are discussing an allocation formula to support the transferred wards based upon a mandatory minimum for small counties, and a weighted average calculation based on the relative number of felony convictions in that county and the

percentage of the county's population in the 10 to 17 year old range. It is expected that the county minimum would favor counties with lower populations. The other two factors would appear to favor counties that have a fast growing juvenile population on a percentage basis.

### **County Impact**

In a May 25, 2007 report to the Board, Probation indicates that the proposed budget initiative would cost the Department about \$96,000 per youth to provide basic care and services not including any additional mental health and health services provided outside of Probation facilities. On May 16, 2007 the Auditor-Controller approved \$339.79 and \$252.69 Daily Inmate Rates for the halls and camps, respectively. These daily rates convert to \$124,023 annually for the halls and \$92,217 annually for the camps. Based on these rates we concur with Probation's estimated annual cost for basic care and services.

The Probation Department estimates that an additional 200 to 300 youth can be housed and treated in County facilities if the Governor's proposed statutory change to retain non-707 (b) offenders passes.

There has been a significant decrease in the number of Los Angeles County minors sent to the DJJ. To provide a better perspective, in 2000, there were approximately 1,700 County youth housed in DJJ facilities, whereas in 2006, there were approximately 560, a 67 percent decrease. As of February 2007, there were 518 Los Angeles County youth housed in DJJ facilities, of which only 161 were non-707(b).

There also has been an overall reduction in the average daily camp population for the last few years. In 2001 the average monthly population at camps was approximately 2,250, whereas in 2006 it was 1,591, a 29.3 percent reduction. This number continues to decline. Thus far in 2007, the average monthly population at the camps is 1,521, a five percent reduction from 2006, or a 514 beds vacancy from the current capacity of 2,035 beds. However, the additional programming being considered as part of the Probation's proposed Camp Redesign calls for increasing the length of stay at camps, and, therefore, as such Probation anticipates that the camps' population should remain at its current levels. If a capacity issue does arise, the Department may address the problem by moving a portion of the 707 (b) youth being housed in our camps to a State facility, which would be permissible under the proposal.

Approximately 35 percent of the minors currently in camp have significant mental health problems, and many of them have been in one or more prior placement facilities. The

County's FY 2007-08 Proposed Budget includes \$570,000 for Neurobehavioral Screening that will significantly enhance the ability to identify, characterize, and treat mentally ill juvenile offenders with co-occurring neurobehavioral disorders. The focus on neuropsychiatric disorders, reduction in recidivism, and quality of life will employ psychosocial, neuropsychological, and neuropsychiatric assessments with historically underserved juvenile groups. Funding in the amount of \$500,000 was also provided to Probation for more extensive substance abuse prevention programs for youth housed in camps to serve 200 youth.

It is projected that most of the offenders that previously would have been transferred to State facilities would need additional health, substance abuse and mental health services. Probation's preliminary review of CPOC's proposed \$130,000 estimate concluded that this rate of funding should be sufficient to provide such programs. My staff is currently working with representatives from the Department of Mental Health, Health Services and Public Health to determine the costs per ward for the services that they will be obligated to provide because of current County policy and the possible additional State requirements resulting from any settlement or consent decree related to the *Farrell* litigation.

### **Significant Issues**

The CSAC has raised an issue regarding the authority of the State to reject the commitment of a juvenile offender into its detention facilities pursuant to the provisions of the Welfare and Institutions Code Section 736. They are concerned that the State may have the authority to unilaterally refuse juvenile offenders which would not constitute a reimbursable mandate. Additionally, Section 736 appears to place the State in a very strong negotiating position with regard to the Juvenile Justice Initiative because it allows the State to stop accepting DJJ wards referred from counties without providing any reimbursement. Our office has referred this issue to the County Counsel for review.

The Chief Probation Officer has indicated in his May report that the housing and treatment of juvenile offenders in the community is desirable when possible. He has concerns regarding the level of financial support by the state related to changes in statute to retain the non-707(b) offenders in County facilities.

While this office concurs with the Chief Probation Officer's belief that the Governor's Initiative is an appropriate policy direction in terms of providing in-County treatment of youthful offenders, there are a number of issues and concerns that are not addressed in the State's proposal. Chief among them is that any shift of juvenile offenders to the

County must be accompanied by adequate levels of State funding. Specifically, an acceptable proposal should contain the following elements:

- Provide the County with adequate State funding for this new population in FY 2007-08 and thereafter of between \$130,000 to \$150,000 annually per ward which is based upon the County's preliminary estimate and estimates of similar urban counties.
- An annual Cost of Living Adjustment which reflects changes in the number of wards and increased personnel and operational costs. A possible and reasonable method of assuring a stable, inflation-adjusted funding source for the plan would be to transfer a dedicated revenue source to each participating county in an amount equal to the county's costs. For example, a share of property tax revenues currently going to schools could be returned to counties as a means of providing a secure, growing funding source for this new county responsibility.
- An appropriate transition and phase-in period from the current system should be included in the plan.
- Adequate State funding for any one-time improvements incurred by the County to acquire or develop housing for this population should be a part of the plan.
- Adequate State funding for any one-time program start-up costs incurred by the County to treat this population.
- A provision that would provide future funding adjustments for any new or additional State requirements related to the conditions of confinement.
- Reimbursement to counties for any additional costs related to increases in the sliding scale for remaining wards sent to State facilities should be provided.
- An adequate remedy for counties to return non-707(b) offenders to the State if the State breaches its obligation to adequately and timely pay counties for the costs associated with this population should be included. The remedy should be outside of the current mandates claim process. This may include statutory trigger language allowing counties to transfer non-707(b) wards if the State does not meet its obligations.
- A mechanism that would provide additional reimbursement to the County should its actual, reasonable costs exceed the amount provided by the State.

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**Recommendation**

We recommend that the Governor's Juvenile Justice Initiative be supported in concept. We further recommend that the County's Sacramento Advocates, Probation Department and other affected departments be directed to ensure that the amendments to the Governor's plan outlined above are part of any compromise Juvenile Justice Initiative, and that they oppose any compromise provisions that have adverse impacts on the County's ability to address the needs of this population.

DEJ:SH:DL/GK  
GS/SJK/DJW:acn

c:     Executive Officer, Board of Supervisors  
        County Counsel  
        Probation Department  
        Department of Mental Health  
        Department of Health Services  
        Department of Public Health